

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert Dolan, Appellant, v. Polk County Board of Review, Appellee.	ORDER Docket No. 14-77-0354 Parcel No. 261-00307-643-000
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On April 24, 2015, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Robert Dolan was self-represented. Assistant County Attorney David Hibbard represented the Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Robert Dolan is the owner of a residentially classified property located 1005 Oakwood Drive, Polk City, Iowa. The property is a one-story home built in 2012. It has 1792 square-feet of main floor living; a full, unfinished walkout basement; a three-car garage, a deck and a patio. The site is 0.510 acres.

Dolan protested to the Board of Review regarding the 2014 assessment of \$379,700, representing \$104,000 in land value and \$275,700 in improvement value. This was a change in value from the previous year making all grounds under Iowa Code section 441.37(1)(a)(1) available for protest. He claimed the assessment was not equitable as compared to the assessments of other like properties under section 441.37(1)(a)(1). He also commented in the space reserved for a change in value, but his comment essentially reasserts his equity claim. During the Board of Review process, the

Assessor's Office became aware of listing errors related to the subject property's land and for other sites in the subject's development. To correct this error, the Board of Review reduced the assessment to \$370,300, representing \$136,800 in land value and \$233,500 in improvement value.

Dolan then appealed to this Board.

Dolan noted his site is described as a "walkout site," on the assessment, a statement with which he disagrees. In his opinion, about two-thirds of the back yard is unusable because of timber, a creek, and steep terrain, and therefore it should not be considered a walkout. He provided photos of the backyard. (Exhibit 3). Although Dolan's site may arguably have less utility because of the topography, trees, and creek, these features are typically desirable and sought-after attributes in the market place.

Dolan asserts his site value is inequitable compared to other sites in the development. He provided ten properties for an equity comparison. (Exhibits 8-14 and 16-18). The following chart outlines the information.

Address	Assessed Land Value	Size (Acre)	AV/Acre
Subject	\$136,800	0.510	\$268,235
1004 Oakwood Dr	\$147,200	1.360	\$108,235
1106 Oakwood Dr	\$134,400	0.789	\$170,342
1102 Oakwood Dr	\$127,800	0.606	\$210,891
1110 Oakwood Dr	\$123,600	1.113	\$111,051
1105 Oakwood Dr	\$139,200	0.920	\$151,304
1109 Oakwood Dr	\$94,000	0.785	\$119,745
1113 Oakwood Dr	\$159,300	2.213	\$71,984
1513 Prairie Ridge Dr	\$108,300	0.590	\$183,559
1509 Prairie Ridge Dr	\$106,800	0.560	\$190,714
1326 Prairie Ridge Dr	\$86,600	0.893	\$96,976

All of the properties located on Oakwood Drive are located in the Tournament Club of Iowa (TCI) Development Plat II like the subject. The properties located on Prairie Ridge Drive are located in a neighboring development, which also borders TCI Golf Course. Dolan notes the average assessed

land value of the ten properties is \$141,180 per acre, and therefore asserts the correct value of his site is \$72,318.

The Board of Review questioned Dolan about these properties. Dolan's property is located in a cul-de-sac, whereas several of the comparable properties are not. However, Dolan did not believe the shape of the lot should matter. Further, Dolan admitted that not all of the properties abut to the golf course like his property. He identified the following as abutting to the golf course: 1004, 1110, 1105, 1109, 1113 Oakwood Drive and all of the properties on Prairie Ridge Drive.

Dolan also asserts the improvement value of his property is not equitable to other properties in the area. His notes that his property has 1792 square-feet with no basement finish and the improvements are assessed for \$233,500. Whereas, a property at 1409 Oakwood Drive has 1810 square feet of above-grade finish, as well as some minimal finish in the basement, yet its improvements have an assessment of \$207,200. Based on this analysis, he asserts his improvements should not be assessed for more than \$207,200.

Polk County Deputy Assessor Jim Willett testified for the Board of Review. He explained that cul-de-sac and walkout lots, like Dolan's, are more desirable in the market. He also explained that an error was noted in the development affecting the subject and about seventeen other parcels. The error was that a vacancy factor had been applied a few years ago due to market conditions, but since then, the market has increased and the sites were improved resulting in the vacancy factor no longer being relevant. Nevertheless, it was mistakenly left on several properties until this assessment year when the error was discovered and the assessments were corrected. Because the Assessor's Office believed the original total values were correct, its decision was to correct the land value upward to bring it equitable to the other sites, and lower the improvement value to retain the approximate original total value.

Willet explained that all of the lots in the subject's subdivision were calculated using the same land table. In this instance, the first 14,000 square feet of the site has an assessed value of \$128,300 or

\$9.16 per-square-foot. Any portion of a site over 14,000 square feet was valued at \$0.9059 per-square-foot. Furthermore, if the site has features such as a walkout like the subject, additional multipliers are applied to it. The following chart demonstrates how subject site was valued using the land table.

(Exhibit E).

	Lot Size	\$9.16/sf for first 14,000 SF	\$0.9059/SF over 14,000 SF	Total	Walkout Factor	Market Adjustment	Total AV (Rounded)
Subject	22,232	\$128,300	7457	\$135,757	1.10	0.916	\$136,800

Because portions of a site in the subject's development have a lower contributory value for the size of the site greater than 14,000 square feet, it is understandable why the final values do not appear to be consistent to Dolan. However, based on Willett's testimony, the sites were valued uniformly, with additional adjustments as warranted for features such as a walkout or other topography factors.

Finally, Dolan was critical of the Board of Review's equity comparables in the certified record, because they have basement finish and his does not. We note that the comparable properties were adjusted for differences in features; however, this is not the proper way to determine equity.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be

shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

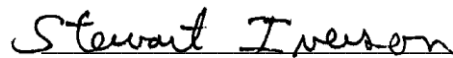
Dolan offered multiple properties he considered comparable to his for an equity analysis of the site value. Dolan's comparison of the properties on a value-per-acre basis was insufficient to prove inequity. While the sites varied in size, and evidence from the Board of Review showed the exact method for valuating these sites, which was applied in a uniform manner. Additionally, other multipliers may have been applied for factors including walkout features or topography issues, but were used to reflect additional lot features that are desirable in the market. Moreover, another method of proving inequity would have been to show a difference in the assessment/sales ratio, but no opinion of market value for the sites was provided. Finally, Dolan submitted minimal data regarding the value of the improvements and there is insufficient evidence to support the property is inequitably assessed.

THE APPEAL BOARD ORDERS the 2014 assessment of Robert Dolan's property located at 1005 Oakwood Drive, Polk City, Iowa, set by the Polk County Board of Review, is affirmed.


Dated this 13th day of May, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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